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## Declaration and Power of Attorney

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled METHOD FOR BIT-RATE AND FORMAT INSENSITIVE PERFORMANCE MONITORING OF LIGHTWAVE SIGNALS, the specification of which (check one) x is attached hereto. x was filed on May 9, 2001, as Application Serial No. 09/852,582 and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to the examination of this application in accordance with Title 37 Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

### Prior Foreign Application(s)

NONE

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

### Prior United States Application(s)

Provisional No. 60/238,295 filed on 10/06/00

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under ' 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint:

Jeffrey I. Kaplan (Reg. No. 34,356)  
Michael R. Gilman (Reg. No. 34,826)  
Aaron S. Haleva (Reg. No. 44,733)  
Michael R. Philips (Reg. No. 34,407)  
Konomi Takeshita (Reg. No. 38,333)

whose address is KAPLAN & GILMAN, L.L.P., 900 Route 9 North, Woodbridge, New Jersey 07095 (telephone (732) 634-7634) jointly and severally my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Direct correspondence and telephone calls to: Aaron S. Haleva, Esq.

Full name of **FIRST NAMED INVENTOR**:

Jithamithra Sarathy

Inventor's Signature:

X Jithamithra

Date:

X 09/07/01

Residence:

34 Country Club Road

Eatontown, NJ 07724

Citizenship:

India

Post Office Address:

(same as above)

Full name of **SECOND NAMED INVENTOR**:

Chinnabu Ekambaram

Inventor's Signature:

X A. Ek

Date:

X 9/5/01

Residence:

25 Jefferson Court

Freehold, NJ 07728

Citizenship:

United States

Post Office Address: (same as above)

Full name of **THIRD NAMED INVENTOR:** David Lidsky

Inventor's Signature: David Lidsky

Date: 9/5/01

Residence: 42 Waterview Way

Citizenship: United States

Post Office Address: (same as above)

Full name of **FOURTH NAMED INVENTOR:** Bharat Dave

Inventor's Signature: X Bharat Dave

Date: X 9/7/2001

Residence: 19 Cripple Creek Road

Howell, NJ 07731

Citizenship: United States

Post Office Address: (same as above)

Full name of **FIFTH NAMED INVENTOR:** Boris Stefanov

Inventor's Signature: X Boris Stefanov

Date: X 8/30/2001

Residence: 691 Meyersville Road

Gillette, NJ 07933

Citizenship: Bulgaria

Post Office Address:

(same as above)

Full name of **SIXTH NAMED INVENTOR**:

Tan B. Thai

Inventor's Signature:

*Tan B. Thai*

Date:

9/5/01

Residence:

8 Sugarpine Drive

Citizenship:

Vietnam

Post Office Address:

(same as above)

Full name of **SEVENTH NAMED INVENTOR**:

Ronald Simprini

Inventor's Signature:

*Ronald A. Simprini*

Date:

8/30/2001

Residence:

40 Sunrise Place

Citizenship:

Red Bank, NJ 07701

Post Office Address:

United States

(same as above)

Full name of **EIGTH NAMED INVENTOR**:

Julio Martinez

Inventor's Signature:

*Julio Martinez*

7/05/2001

Date:

4 Cypress Avenue

Residence:

Oakhurst, NJ 07755

Citizenship:

Cuba

Post Office Address:

(same as above)

Full name of NINTH NAMED INVENTOR:

Gaurav Naik

Inventor's Signature:

G.A. Naik

Date:

08/30/2001

Residence:

328 A, South Street

Citizenship:

Eatontown, NJ 07724

Post Office Address:

India

(same as above)